An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-355

No. COA21-721

Filed 17 May 2022

McDowell County, Nos. 17JT12-13

IN THE MATTER OF:

M.M.
J.M.
Minor Children.

Appeal by respondent-mother from judgment and order entered 23 August 2021 by Judge Ellen M. Shelley in McDowell County District Court. Heard in the Court of Appeals 26 April 2022.

Miller & Audino, LLP, by Jeffrey L. Miller, for respondent-appellant-mother.

Aaron G. Walker for petitioner-appellee McDowell County Department of Social Services.

Matthew D. Wunsche for the Guardian ad Litem.

GORE, Judge.

¶ 1 Respondent-mother appeals from the trial court's 23 August 2021 judgment and order terminating her parental rights to M.M. ("Mel") and J.M. ("Jon").[1] Counsel

[1] The pseudonyms "Mel" and "Jon" are used to protect the identity of the juveniles and for ease of reading.

for respondent-mother has filed a no-merit brief pursuant to N.C.R. App. P. 3.1(e). When appellant's counsel submits a no-merit brief in a juvenile matter, this Court then carefully and independently reviews the issues identified by counsel in light of the entire record. *In re C.R.B.*, 374 N.C. 523, 525, 843 S.E.2d 57, 58 (2020); *In re L.E.M.*, 372 N.C. 396, 403, 831 S.E.2d 341, 345 (2019). We conclude the issues identified by counsel in respondent's brief are meritless and therefore affirm the trial court's order.

¶ 2 Respondent-mother and M.M. are the unmarried natural parents of the juveniles Mel and Jon. The parental rights of M.M. were previously terminated in a separate civil action.

¶ 3 In October 2018, McDowell County Department of Social Services ("DSS") received a referral for domestic violence in respondent-mother's home. Following an argument, respondent-mother's live-in boyfriend, Greg W., reportedly choked and fought with her. Respondent-mother called 911 for assistance. Law enforcement responded and observed marking and bruising on respondent-mother and Greg. The children were present during this altercation. Greg was intoxicated at the time and registered a .25 on a breath test. There is a prior history of domestic violence by Greg against respondent-mother that involved DSS.

¶ 4 On 9 April 2019, following ongoing domestic violence and non-compliance with service plans, DSS filed petitions alleging Mel and Jon were neglected juveniles. Non-

Secure Custody Orders were entered granting custody and placement authority to DSS. In September 2019, respondent-mother stipulated to the factual allegations in the petitions and the trial court adjudicated Mel and Jon as neglected juveniles. In its disposition, the trial court granted custody and placement authority to DSS, ordered reunification efforts, and established a case plan for respondent-mother.

¶ 5 At the initial permanency planning review hearing on 19 December 2019, the trial court determined that respondent-mother had made minimal progress in her case plan. A primary permanent plan of guardianship was established, with a secondary plan of reunification with respondent-mother.

¶ 6 At a review hearing on 30 January 2020, the trial court made findings that respondent-mother: refused to submit to drug screens; failed to produce a work schedule; had not completed parenting classes, individual counseling, or co-dependency classes; had not submitted to a parenting capacity evaluation; and had not completed her additional comprehensive clinical assessment service recommendations. The trial court determined that respondent-mother was in substantial non-compliance with her case plan.

¶ 7 Following a subsequent permanency planning review on 27 August 2020, the juveniles' primary plan was changed to adoption with the secondary plan remaining reunification. The trial court made findings that respondent-mother had tested positive for opiates and hydrocodone at times she did not have a valid prescription

and that she had engaged in pain pill seeking behaviors. Between January and February 2020, she had obtained 166 pills of oxycodone. She had lost her job and her car and had been evicted from her residence. She missed scheduled appointments for her parenting capacity assessment and did not submit to an evaluation until August 2020. The trial court found that respondent-mother was in substantial non-compliance with her case plan while her children had been in custody for more than 400 days. It ordered her to complete additional services and ceased visitation with Mel and Jon.

¶ 8 DSS filed its petition to terminate respondent-mother's parental rights on 15 February 2021. The petition alleged grounds of neglect, lack of reasonable progress, failure to pay reasonable cost of care, incapacity/dependency, and abandonment. The trial court determined that clear and convincing evidence supported each of the alleged grounds for termination. It concluded that it was in the children's best interest for respondent-mother's rights to be terminated. On 23 August 2021, the trial court entered a written order terminating respondent-mother's parental rights. On 20 September 2021, respondent-mother timely filed notice of appeal.

¶ 9 Counsel for respondent-mother identifies three issues that could arguably support an appeal but concedes there is no non-frivolous argument to make against: (i) multiple grounds to terminate her parental rights; (ii) the trial court's determination that termination of her parental rights was in the juveniles' best

interest; and (iii) the trial court's denial of her motion to continue the dispositional phase. Counsel for respondent-mother has satisfied the requirements of N.C.R. App. P. 3.1(e) by advising his client that she has the option of filing a *pro se* brief with this Court and providing her with the trial transcript and record on appeal. Respondent-mother has not submitted a *pro se* brief to this Court.

¶ 10 We have carefully and independently reviewed the issues identified by counsel, and we are satisfied that the trial court's 23 August 2021 order terminating respondent-mother's parental rights is supported by clear, cogent, and convincing evidence, and that it is based on proper legal grounds. Further, we discern no abuse of discretion in the trial court's best interest determination. Accordingly, we affirm the trial court's order terminating respondent-mother's parental rights.

AFFIRMED.

Judges COLLINS and HAMPSON concur.

Report per Rule 30(e).